


7722/23

28th March, 2023

Counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl. A.G alongwith Noor Baz Khan, Inspector for the respondents present.

Representative of the respondents submitted reply/comments which is placed on file and a copy whereof handed over to learned counsel for the appellant. Representative of the respondents requested for time to deposit the cost of Rs. 5000/- as ordered on 07.02.2023. Request is accepted. He is directed to deposit the cost on the next date. To come up for rejoinder, if any, and arguments on 01.06.2023 before the D.B. Parcha Peshi given to the parties.


**SCANNED
KPST
Peshawar**


(Fareeha Paul)
Member(E)

20.12.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and seeks further time for submission of reply/comments. Last opportunity given. In case the last chance as given is not availed, the next adjournment shall be subject to prior payment of cost of Rs. 5000/-. Adjourned. To come up for submission of reply/comments on 07.02.2023 before the S.B.

SCANNED
KPST
Peshawar


(Saif-Ud-Din)
Member (J)

07th Feb. 2023

Nemo for the appellant. Mr. Uzair Azam Khan, learned Additional Advocate General for the respondents present. Reply/comments on behalf of the respondents not submitted despite last chance. On the request of learned AAG another chance is given to the respondents to submit reply/comments on the next date. To come up for written reply/comments and cost of Rs. 5000/- as ordered on 20.12.2022, on 28.03.2023 before the S.B.

SCANNED
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Peshawar

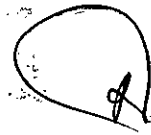

(Fareeha Paul)
Member(E)

17.10.2022

Junior to counsel for appellant present.

Naseer Ud Din Shah, learned Assistant Advocate General present. Nemo for respondents.

Reply not submitted. On the preceding date, office was directed to issue notice to respondents but due to non-availability of postal tickets, process could not be issued. Appellant is directed to do the needful and notices be issued to respondents for 18.11.2022 before S.B.



(Rozina Rehman)
Member (J)

18.11.2022

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Riaz, Inspector for the respondents present.

Reply/comments on behalf of respondents not submitted.

Representative of the respondents requested for time to submit reply/comments. Adjourned. To come up for reply/comments on

20.12.2022 before D.B.



(Mian Muhammad)
Member (E)

SCANNED
KPST
Peshawar

Out district respondents were not put on notice due to non-availability of postal tickets. Appellant did not contact us for sending their notices.

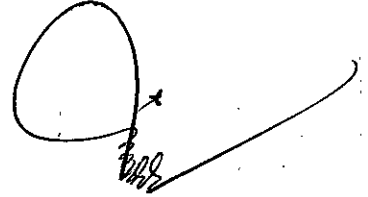
15.07.2022

Notices issued
for 02/09/22

Rs-500/-
Appellant Deposited
Security & Process Fee

A. M. Hash
18/7/22

Learned counsel for the appellant present and submitted an application for extension of time to deposit security and process fee. Applicant is allowed and learned counsel for the appellant is directed to deposit security and process fee within (03) days, thereafter, notices be issued to the respondents for submission of reply/comments. Adjourned. To come up for reply/comments before the S.B on 02.09.2022.



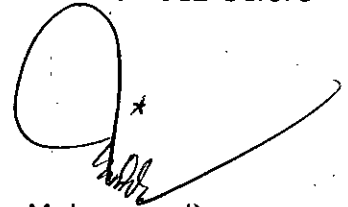
(MIAN MUHAMMAD)
MEMBER (E)

02.09.2022

Counsel
was informed
telephonically due to
non-availability of postal
tickets

Nemo for the appellant. Mr. Naseer-Ud-Din Shah, Assistant Advocate General for the respondents present.

Reply/comments on behalf of respondents not submitted. Learned Assistant Advocate General seeks time to contact the respondents for submission of reply/comments. Notice be issued to the appellant and his counsel to attend the court on the next date. Adjourned. To come up for reply/comments on 17.10.2022 before S.B.



(Mian Muhammad)
Member (E)

16.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 11.05.2022 for the same as before.


Reader

11.05.2022

Appellant present through counsel. Preliminary arguments heard. Record perused.

notes

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 15.07.2022 before S.B.





(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7722 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	03/11/2021	<p>The appeal of Mr. Rasheed Ahmad resubmitted today by Mr. Arif Ullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	21.12.2021	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>21/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Junior to counsel for appellant present.</p> <p>Lawyers are on general strike, therefore, case is adjourned to 16.02.2022 for preliminary hearing before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

The appeal of Mr. Rasheed Ahmad S/O Dost Muhammad, R/O Gandagir Dir Upper, presently serving as Constable Belt No. 1119, DPO Dir Upper received today i.e. on 18.10.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Check list is not attached with the appeal.
2. Appeal has not been flagged/marked with annexure marks.
3. Departmental Appeal to DIG, Copy of Judgment, Order dated 14/10/2016, Order dated 22/04/2016 Page no 16, 18 and 19 attached with the appeal are illegible which may be replaced by legible/better one.
4. Certificate be given to the effect that the appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.
5. Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2074 /S.T,

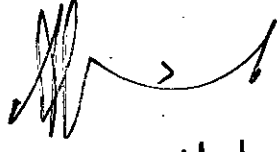
Dt. 18/10 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Arif Ullah Adv.
High Court Pesh.

Respected Sir,

Resubmitted after completion


Arif Ullah
Advocate

BEFORE THE LEARNED
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 7722/2021

Rasheed Ahmad

(Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa etc.


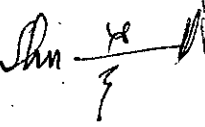
(Respondents)

INDEX

S. No.	Documents	Annex:	Page No.
1	Memo of appeal		1-4
2	Affidavit		5
3	Copy of judgment of service tribunal		6-9
4	Copies of the denove inquiry and order		
5	Copy of Order dated 13.09.2021		20
6	Wakalat Nama		

Appellant 

Through

Arif Ullah 
Muhammad Zia Ullah
Syed Zia Ur Rehman 
Advocates High Court,
Peshawar

Dated: 18.10.2021

①

BEFORE THE LEARNED
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2021

Registry Peshawar
Service Tribunal

Dist: 7744

Date: 18/10/2021

Rasheed Ahmad S/o Dost Muhammad

R/o Gandagir Dir Upper presently serving as Constable Belt No.

1119, DPO Dir Upper

(Appellant)

V E R S U S

- 1) Inspector General of Police, Khyber Pakhtunkhwa
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat
- 3) District Police Officer, Dir Upper

(Respondents)

Service Appeal Under Section 04 of the
Service Tribunal Act, against the order dated
14.10.2016 upto the extent whereby the
absence period from 06.06.2010 to
06.07.2020 and remaining intervening service
period was treated as Service without pay, as
well as decision upon departmental appeal
dated 13.09.2021 which was turned down.

Medico-Legal
Registrar
18/10/21

Prayer:

On acceptance of this appeal, the back benefits in shape of monthly salaries as well as increments may graciously be allowed to the appellant. Any other relief deemed proper in the circumstances of the case may kindly also be granted to the appellant.

Respectfully Sheweth,

The appellant most respectfully submits as under:

- 1) That the appellant serving in the Police Department as a Constable since 24.04.2001.
- 2) That earlier on 19.11.2009 the appellant was transferred to Elite Force KPK but due to severe illness he could not attained the training program due to which he was dismissed from service vide order dated 29.03.2011.
- 3) That appellant filed the departmental appeal but no response was given therefore he moved an appeal before this hon'ble tribunal which was allowed with the direction of denove proceedings. (Copy of judgment of service tribunal is attached)
- 4) That thereafter denove proceeding were conducted whereby recommendation of minor punishment was suggested, hence the absence period of the appellant i.e.

from 06.06.2010 to 06.07.2010 as well as the period in which the appellant was remained out of service was also treated as leave without pay vide Order No. OB677 dated 14.10.2016. (Copies of the denove inquiry and order are attached)


- 5) That against the said order upto the extent of considering time intervening period a leave without pay an appeal was filed to the Regional Police Officer Malakand region Saidu Sharif Swat which was also turned down vide order No. 105/70-E dated 13.09.2021. (Copy is attached)
- 6) That aggrieved of the aforesaid order, applicant approach this hon'ble court for redressal, inter alia upon the following grounds.

GROUNDS


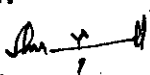
- a) That appellant is entitled for the grant of back benefits because earlier harsh punishment of dismissal from service was accorded to the appellant without following codal formalities. Due to which the appellant suffered a lot therefore entitled for the back benefits.
- b) That after denove proceeding the appellant was suggested for minor punishment meaning thereby the earlier harsh punishment of dismissal from service granted to the appellant was one of void order and upto this ground too he is entitled for back benefits.

- c) That even increments for the intervening period dated 2010 to 2014 are not given / allocated to the appellant which is against the law and service rules.
- d) That due to not giving increments to the appellant his service career become spoiled which is a grave miscarriage of justice.

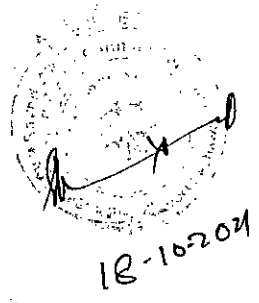
It is, therefore, most humbly stated that on acceptance of this appeal, the back benefits in shape of monthly salaries as well as increments may graciously be allotted / allowed to the appellant. Any other relief deemed proper in the circumstances of the case may kindly also be granted to the appellant.

Appellant 

Through

Arif Ullah 
 Muhammad Zia Ullah
 Syed Zia Ur Rehman 
 Advocates High Court,
 Peshawar

Dated: 18.10.2021



BEFORE THE LEARNED
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2021

Rasheed Ahmad

(Appellant)

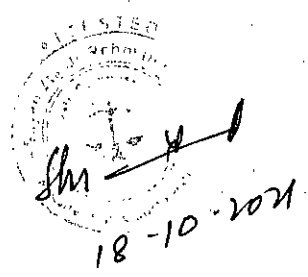
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa etc.

(Respondents)

AFFIDAVIT

I, **Rasheed Ahmad** S/o Dost Muhammad R/o Gandagir Dir Upper presently serving as Constable Belt No. 1119, DPO Dir Upper, do hereby solemnly affirm and declare on Oath that the contents of instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble tribunal.



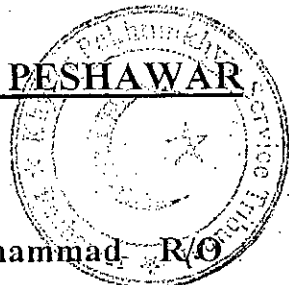

DEPONENT

6

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 172/2012

Rashid Ahmad Ex Constable No 181 S/O Dost Mohammad R/O
Gandigar District Dir Upper
.....(Appellant)



131
Filed 28/07/2012

VERSUS

1. District Police Officer Dir Upper
2. Deputy Inspector General of Police Malakand Region At Saidu Sharif Swat
3. Deputy Commandant Elite Force KPK Peshawar
4. Commandant Elite Force KPK Peshawar
5. Provincial Police Officer, Khyber pukhtoon khwa Peshawar

.....(Respondents)

APPEAL U/S 10 OF THE KPK REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE 2000 AGAINST THE ORDER DATED 29-03-2011 PASSED BY RESPONDENT NO 1 WHERE BY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE FROM THE DATE OF HIS ABSENCE AND AGAINST WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED DESPITE THE LAPSE OF MORE THAN NINETY DAYS

PRAYER:-

On acceptance of this appeal the impugned order dated 29-03-2011 of respondent No 1 may kindly be set aside and the appellant may kindly be ordered to be reinstated in Service with all back benefits.

Respectfully Submitted:-

1. That the appellant joined Police Department in FRP Malakand Range Swat as Constable in the year 2001 and since then

ATTESTED

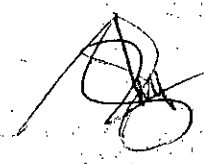
[Signature]
Khyber Pukhtoon Khwa
Service Tribunal,
Peshawar

22/11/12

submitted to-333
filed,

31/11/12

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	10.03.2016	<p><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p>Appeal No. 171/2012</p> <p>Nisar Ahmad Vs. District Police Officer, Dir Upper etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Fazal Shah Mohmand, Advocate) and Sr. Govt. Pleader (Mr. Usman Ghani), with Fazle Maula, S.I for the respondents present.</p> <p>2. According to record, appellant Nisar Ahmad and appellant Rashid Ahmad, both police constable of district Dir (Upper) were transferred to Elite Force. For their absence from duty there, they were dismissed from service by DPO Dir Upper vide his impugned order dated 29.3.2011. Since their departmental appeals were not responded, hence their separate appeals under Section 4 of the KPK Service Tribunal Act, 1974 before this Tribunal</p> <p>3. Unfortunately, the department failed to produce the relevant record like the charge sheet, statement of allegations, enquiry report so much so that record pertaining to the said transfer order or record of his absence at the Elite Force was also not produced. The available materials on file shows that DPO Dir Upper issued a show cause notice to the appellants dated</p>

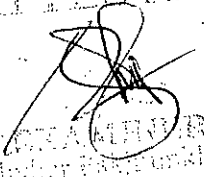


10.3.2011. The appellants have submitted their replies to this show cause notice. Thereafter, by way of the impugned order dated 29.3.2011, the appellants were dismissed from service.

4. Arguments heard and record perused:


5. The learned counsel for the appellants submitted that when the appellant was transferred to the Elite Force, DPO Dir was not competent to have passed the impugned order and thus the order is without jurisdiction. He further submitted that no charge sheet, statement of allegations was issued to the appellants nor any enquiry was conducted and so far the span of absence is concerned, there is a contradiction in reply of the respondent department. He further submitted that no proper procedure was adopted. That the medical certificates of the appellant cannot be legally refused but it is evident that this aspect of the case was not taken into account by the competent authority. He further submitted that no opportunity of personal hearing was provided to the appellant and that the impugned order has been passed with retrospective effect which is also unlawful on this score. He argued that as the impugned order is void, therefore, no limitation runs against such an order. He further submitted that major penalty has been imposed against the appellants without conduct of proper enquiry which is unlawful. In support of his contentions, learned counsel for the appellant referred to NLR 1982 SCJ 166, 2008-SCMR-214, 2008-PLC(C.S)1055, 2009-SCMR-329, 2009-SCMR-615 and 2011-SCMR-1220,

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

6. The appeal was resisted by the learned Sr.GP. He submitted a copy of letter No. 2910-13/EC, dated 18.09.2015 of DPO Dir (Upper), addressed to Addl. Inspector General of Police Headquarters, KPK Peshawar which shows that the relevant record stands misplaced and responsibility of which also fixed on one Miraj Hussain, then Head Clerk and Tahir, Constable No. 525. He submitted that all codal formalities have been complied with and as the appeal is time-barred, therefore, the same may be dismissed.

7. From materials available on file it conveyed that the appellant was initially sent for the training of Elite Force whereafter he absented himself and reported back to Dir wherefrom he was again relieved to report to the Elite Force. The said situation is reflected from perusal of the impugned order but as the relevant record is not available, therefore, nothing with certainty can be stated. This may be observed that the appellant has remained absent from duty and the plea of illness taken by him does not seem to be correct but the respondent-department failed to produce the charge sheet or enquiry report issued to the appellant by DPO Dir or the show cause notice issued to the appellant by the Elite Force and neither the absence period is certain nor that when he was transferred to Elite Force and whether it was a temporary arrangement or ^{permanent?} not? This aspect of the case is important as one of the contentions for the appellant is that DPO Dir was not competent to have passed the impugned order. It appears that the appellant is being facilitated in his defence by the respondent

ATTESTED

 Director of Public Prosecution
 Peshawar

department who failed to produce the relevant record against the appellant and the fixing responsibility for misplacing of record seems to be an eye wash. The Tribunal is however, constrained that due to insufficient record and for lack of cogent reasons on behalf of the respondents, to undo the impugned order dated 29.03.2011. Consequently, the impugned order is set aside. The respondent department is directed to initiate denovo proceedings against the appellant by giving him full opportunity of hearing and to decide the case afresh. Needless to mention that for such denovo proceedings, the appellant is reinstated into service. The issue of back benefits shall also be decided by the respondent department after such denovo proceedings. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

8. This judgment will also dispose off connected service appeal No. 172/2012 Rashid Ahmad, having common facts and question of law, in the same manner.

ANNOUNCED
10.03.2016

Sd/- Pir Bakhsh Shah,
Member

Sd/- Abdul Latif,
Member

(AL
M

Certified true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Registration: 16-03-2016
 Number of Pages: 2000
 Copies: 12
 Urgent: 2
 Total: 14
 Name of Officer: [Signature]
 Date of Order: 16-03-2016
 Date of Entry: 16-03-2016



Rashid Ahmad vs Police Deptt

172/2012

10.3.2016

Appellant with counsel (Mr. Fazal Shah Mohmand, Advocate) and Sr. Government Pleader (Mr. Usman Ghani) with Fazle Maula, S.I for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected service appeal No. 171/2012, titled "Nisar Ahmad Versus District Police Officer Dir Upper etc.", this appeal is also disposed off as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

10.03.2016

sd/- Member
sd/- Member

ME

Certified to be true copy

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Date of Presentation of Application 16-03-2016
Number of Copies 800
Copying Fee 6-00
Stamp 2-00
Total 8-00
Receipt of Money
Date of Certificate 16-03-2016
Date of Delivery 16-03-2016

12

~~12~~

B

ORDER.

Constables Nisar Ahmad No. 121 and Rashid Ahmad No. 181 were awarded punishment of dismissed from Police Service vide this office OB No. 199/200 dated 29.03.2011. They made appeal to the competent authority and the competent authority rejected their appeal. Ex-constables Nisar Ahmad No. 121 and Rshid Ahmad No. 181 gone on appeal to the Honorable Service Tribunal KPK, Peshawar. On 29.03.2011, the Honorable Service Tribunal ordered in the detail judgment that the afore-stated reasons the impugned orders dated 29.03.2011 cannot be maintained. The case is remitted to the respondent- department for fresh departmental enquiry against the appellants strictly in accordance with law. Back benefits etc, will be subject to the outcome of fresh proceedings. The appeal is disposed of accordingly in the above terms. In response of the judgment of Honorable Service tribunal Constables Nisar Ahmad No. 121 and Rashid Ahmad No. 181 are hereby re-instated into service with immediate effect and separate fresh departmental enquiry will be initiated against them shortly.

OB No. 299

Dated 21/4/ 2016 ✓

[Signature]
District Police Officer,
Dir Upper.

No. 1738-40 /GB, dated Dir Upper the 22/04/2016.

Copies of above is submitted for information to:-

1. Worthy Regional Police Officer, Malakand at Saidu Sharif Swat.
2. PA to Worthy DPO Dir Upper with the direction that a fresh enquiry may be initiated, Mr. Mohy Uld Din Acting DSP HQrs, Dir Upper appointed as enquiry officer.

[Signature]
District Police Officer,
Dir Upper.

ATTESTED

[Signature]
Anis ulleah

CHARGE SHEET.

13
B

I Muhammad Athar Waheed District Police Officer, Dir Upper, as competent authority, hereby charged you Constable Rashid Ahmad No. 1119 while posted at Police Lines as follows:-

As reported you willfully and deliberately absented yourself from training program at Panakot SSG Elite Centre Jalozai Nawshera with effect from 06.06.2010 till issuance of Show Cause Notice on 06.07.2010 and Charge Sheet along-with Summary of Allegation on 17.02.2011. You failed to explain the reasons behind your long deliberate absence from duty.

2. By reason of the above, you appear to be guilty of criminal act and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules 1975

3. You are therefore required to submit your written reply within 07 days of the receipt of this charge sheet to the enquiry Officer.

4. Your written reply, if any should reach to the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case the ex-parte action shall follow against you.

Intimate as to whether you desire to be heard in person or not?

6. Statement of allegation is enclosed.

(MUHAMMAD ATHAR WAHEED) PSP
District Police Officer,
Dir Upper.

No. 1537 /SB, Dated Dir Upper the 23/6/2016.

Copy submitted Constable Rashid Ahmad No. 1119 while posted at Police Lines your reply to the Charge Sheet with stipulated period.

ATTESTED

Arif ulha Awan

DISCIPLINARY ACTION.

I, Muhammad Athar Waheed District Police Officer, Dir Upper, as competent authority, is of the opinion that you Constable Rashid Ahmad No. 1119 while posted at Police Lines, have rendered him liable to be proceeded against departmentally as you have committed the following acts/omission as defined in Rule-2 (iii) of Police Rule 1975.

STATEMENT OF ALLEGATION.

Whereas the constable willfully and deliberately absented himself from training program at Panakot SSG Elite Centre Jalozai Nawshera with effect from 06.06.2010 till issuance of Show Cause Notice on 06.07.2010 and Charge Sheet along with Summary of Allegation on 17.02.2011. He failed to explain the reasons behind his long deliberate absence from duty.

2. For the purpose of scrutinizing of the said accused with reference to the above allegations, Inspector Mahye Ud Din RI Police Lines, Dir Upper is appointed as the Enquiry Officer under the said Rules.

3. The Enquiry Officer shall conduct proceeding in accordance with provision of Police Rule 1975 and shall provide reasonable opportunity of defence and hearing to the accused official, record its findings and make within fifteen days (15) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.

4. The accused official shall join the proceeding on the date, time and place fixed by the Enquiry Officer.

(MUHAMMAD ATHAR WAHEED) PSP
**District Police Officer,
Dir Upper.**

No. 1537-78 /SB, Dated Dir Upper the 23/6/2016.

Copy of the above is forwarded to:-

1. The Enquiry Officer for initiating proceeding against the accused official under Police Rule, 1975.
2. Concerned defaulter official.

ATTESTED
[Signature]

بحوالہ مشمولہ چارج شیٹ نمبری SB/38-1537 مورخہ 23.06.2016 معروض
خدمت ہوں کہ من سائل مورخہ 27.04.2001 سے کسٹم کنسٹیبل بھرتی ہو کر تاحال
اپنے فرائض منصبی نہایت ایمانداری و جانفشانی سے انجام دیتا رہے۔ کہ سائل ایلینٹ کورس
کے لئے منتخب ہو کر بمورخہ 01.05.2010 ٹریننگ سنٹر جلوزئی میں حاضر ہو کر مورخہ 03.06.2010
تک ٹریننگ میں شمولیت کی ہے۔ اس دوران سائل کے والدہ صاحبہ شدید بیمار ہو کر حسب اطلاع 4 یوم
رخصت پر گھر خود آ کر والدہ کی تیمارداری میں مصروف رہا۔ جو بمورخہ 08.06.2010 کو بقضائے
الہی وفات پا گئی اس کے بعد سائل خود شدید بیمار ہو کر ڈاکٹر صاحب نے 30 یوم رخصت / آرام کا
مشورہ دے کر بعدہ سائل ٹریننگ سنٹر میں حاضر ہوا مگر متعلقہ حکام نے میرے حاضری رپورٹ لینے سے
انکار کر کے اور پھر پولیس لائن دیر بالا میں حاضر ہو کر مگر پولیس لائن اہلکاران نے بھی حاضری رپورٹ
لینے سے انکار کیا تھا۔ جناب عالی ایک طرف سائل کے والدہ وفات پا گئی دوسرے طرف سائل خود
بیمار ہو گیا جب متعلقہ اہلکاران / آفسران سائل کے حاضری کروانے سے انکار کرتے رہے۔ بدیں
وجہ سائل کا کوئی قصور نہیں ہے سائل نے انتہائی خراب حالات 2008/2009/2010 میں اپنے
ڈیوٹی سرانجام دی ہے۔ اور اب بھی من سائل اپنے ڈیوٹی ایمانداری اور خلوص نیت سے انجام دے
رہا ہے۔ جملہ غیر حاضری میں سائل کا کوئی قصور نہ ہے بلکہ انتہائی مجبوری شدید بیماری و آفسران کے
حاضری نہ کروانے کی وجہ سے ہوئی ہے۔ اور سائل کو پولیس سروس ہسپتال پشاور کے ڈاکٹر صاحب نے
باقاعدہ میڈیکل ریٹ دیا تھا۔ اور رفتہ رفتہ معائنہ کرنے وقت لزر نے کیساتھ ساتھ میڈیکل ریٹ دی
ہے۔ جو کہ لف قابل ملاحظہ ہے سائل نے زائد از عرصہ دس سال ملازمت کی ہے اور اس دوران کبھی بھی
غیر حاضر نہیں رہا جبکہ صرف سال 2005 میں 1 ماہ رخصت کلاں گزاری ہے۔ اور بمطابق قواعد رخصت
کلاں و میڈیکل کیو کا حقدار ہے لہذا استدعا ہے کہ منظور فرمایا جائے اور اس سیر چارج شیٹ مشمولہ بلا
مزید کارروائی فائل فرمائے جائے۔

بندہ تاجیات دعا گو رہیگا۔

سائل رشید احمد نمبر 1119 متعینہ پولیس لائن دیر بالا

ATTESTED

04/7/16
Arif ulah Khan

No 93/ DSP H

فائلنگ رپورٹ

DI 15-8-16

جناب عالی!

حوالہ انکوائری اڈان کنسٹیبل رشید احمد 1119 مسروس خدمت، وہاں کہ ٹائبل مذکورہ کنسٹیبل اسے ایلیٹ کورس کیلئے منتخب ہو کر کورس میں حاضری کرنے کے بعد دوران کورس سے غیر حاضر ہو کر جس پر کنسٹیبل کے خلاف انکوائری شروع ہو کر اٹلویا سیری میں قہور وار پایا جا کر تھلہ پولیس سے برخواست لیا گیا۔ سلم برخواستگی کے خلاف کنسٹیبل نے مسروس ٹریبونل پشاور میں اپیل دائر کی۔ عدالت نے سماعت کے خاطر بارہا انکوائری فائل شدہ سے طلب کی مگر طلب پولیس اپر ایسی کیوشن فائل پیش کرنے سے قاصر رہے۔ جس پر عدالت نے یک طرفہ کارروائی کرتے ہوئے کنسٹیبل مذکورہ کو تھلہ میں بحال کرنے اور Denove انکوائری کرنے کے احکامات صادر فرمانے پر اسر نو انکوائری کے خاطر من R.I کو حوالہ ہوئی۔

انکوائری میں کنسٹیبل رشید احمد 1119 کو چارج شیٹ نمبری 1537-38/SB مورخہ 23.6.2016 جاری ہو کر جس نے اپنے تحریری بیان میں واضح کیا کہ ضلع ہڈا سے سال 2010 میں ایلیٹ فورس ٹریننگ کیلئے منتخب ہونے کے بعد اپنی حاضری کی رپورٹ ایلیٹ ٹریننگ سنٹر جلوزنی ضلع نوشہرہ میں کرنے کے بعد مورخہ 03.06.2010 کو والدہ کی بیماری کی اطلاع وصول ہونے پر انچارج سے چار یوم رخصت منظور کر لے کر خود آیا۔ دوران رخصت مورخہ 08.06.2010 کو والدہ کی وفات پر وہ خود بھی شدید بیمار ہوا۔ علاج کی خاطر پولیس مسروس ہسپتال پشاور سے علاج کے ساتھ ڈاکٹر نے ایک ماہ میڈیکل ریٹ بھی تجویز کی۔ میڈیکل ریٹ کے انتقام پر دوبارہ ٹریننگ ہڈا میں لانے کے لیے ٹریننگ سنٹر میں حاضر ہوا۔ تو انچارج ٹریننگ نے ٹریننگ میں شامل کرنے سے انکار کیا۔ جس پر دوبارہ وہاں پولیس لائن شلہڈا لراپنی مسانسری پیش لی مریہاں بھی حاضری رپورٹ ہی سے درج نہ کیا اور بتایا گیا کہ تم ایلیٹ تبدیل ہو چکا ہے۔ وہاں حاضری کریں۔ اور ایلیٹ میں بھی مسانسری نہ ہو سکی۔

سابقہ انکوائری کاغذات دفتر عملنامہ کلرک سے طلب کرنے پر عدم موجود پائے گئے۔ جس کی نسبت عملنامہ کلرک نے ہڈا ایڈیڈ JC سے بیان لیا جا کر جس نے اپنے بیان میں واضح کیا کہ کنسٹیبل کا مسروس ریکارڈ دفتر ایلیٹ فورس ارسال ہو چکا ہے۔ جس کی دوبارہ طلبی کے خاطر ایڈیڈ نمبر 2950/EB مورخہ 06.05.2010، نمبر 3051/EB مورخہ 29.07.2016 جاری ہو چکے ہیں۔ جس کے جواب میں ابھی تک کسی قسم کی کارروائی دفتر ایلیٹ فورس کی طرف سے مل میں نہیں لائی گئی ہے۔ بقول منثارہ کنسٹیبل مسروس ریکارڈ میں پیش ہو چکے ہیں۔

یونٹ انکوائری ہڈا سے معلوم ہوا کہ کنسٹیبل رشید احمد نمبر 1119 نے بیماری کا بہانہ بنا کر ٹریننگ سے اپنے آپ کو بچانے کی کوشش کرتے ہوئے غیر مسانسری رہ چکا ہے۔ چونکہ مذکورہ کنسٹیبل کے سابقہ انکوائری دستیاب ہوا اور نہ ہی اسکے فونی مشل اور مسروس ریکارڈ دستیاب ہوا ہے۔ جن کے بہت عملنامہ کلرک نے بیان لیا ہے۔ انکوائری ہے۔ چونکہ ریکارڈ طلب کرنے کافی انتظار لے باو ہو ڈیھی دستیاب نہ ہو گا، یونٹ عدالت مذکورہ کنسٹیبل کو بحالی کا حکم صادر فرمایا ہے۔ انکوائری سے مذکورہ کنسٹیبل قصور وار پایا جاتا ہے۔ لہذا Minor سزا کی سفارش کی جاتی ہے۔

شی الدین

آر آئی دیر بالا۔

ATTESTED

Anfulch Sen

OFFICE OF THE
DISTRICT POLICE OFFICER,
DIR UPPER.

Order:-

This order will disposed of the denovo enquiry of Constable Rashid Ahmad No. 1119 of this District Police. The above named Constable was dismissed from service vide District Police Officer, Dir Upper order No. 199 dated 29.03.2011 and the absence period from 06.06.2010 to 06.07.2010 was treated as leave without pay. The above Constable filed appeal in the Service Tribunal against the above mentioned order.

The Service Tribunal in the judgment order dated 10.03.2016 re-instated the appellant Constable Rashid Ahmad No. 1119 and re-instated him in Service and placed the respondent at liberty to conduct "denovo" enquiry regarding allegations and charges against the appellant.

In the light of Service Tribunal Judgment order a denovo enquiry has been initiated against the above named official.

Mr. Mahye Uddin Khan RI Police Lines was nominated as enquiry officer; the enquiry officer recommended that the absent period with effect from 06.06.2010 to 06.07.2010 be treated as leave without pay.

Keeping in view the finding report of enquiry officer the absent period i.e 06.06.2010 to 06.07.2010 in which remained out of service is also treated as leave without pay.

Order announced.

3
District Police Officer,
Dir Upper.

OB No. 677

Dated 14.1.2016 2016.

1/4 to 5/6 2010

6 June

1/4 to 5/10

ATTESTED

Attest
And ulloh. Anu

(17) "A"

[Better Copy]

OFFICE OF THE
DISTRICT POLICE OFFICER,
DIR UPPER

ORDER

This order will disposed of the denovo enquiry of Constable Rashid Ahmad No. 1119 of this District Police. The above named Constable was dismissed from service vide District Police officer, Dir Upper Order No. 199 date 29.03.2011 and the absence period from 06.06.2010 to 06.07.2010 was treated as leave without pay. The above Constable filed appeal in the Service Tribunal against the above mentioned order.

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In the light of Service Tribunal Judgment order a denovo enquiry has been initiated against the above named official.

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Keeping in view the finding report of enquiry officer the absent period i.e. 06.06.2010 to 06.07.2010 in which remained out of service is also treated as leave without pay.

Order announced.

**District Police Officer,
Dir Upper**

OB No. 677
Dated: 14.10.2016

NOTE SHEET

REFERENCE ATTACHED ENQUIRY

Sir,

It is submitted that Constable Rashid Ahmad No. 1119 of this district Police was dismissed from service by the then DPO Dir Upper on 29.03.2011, due to the allegations that:-

ALLEGATIONS.

The defaulter constable willfully and deliberately absented from training program w.e.f 06.06.2010 to 06.07.2010 without prior permission from his superior.

2. He made appeal before the Honorable Service Tribunal. The Service Tribunal in a judgment order re-instated him in service with the direction to initiate de-novo proceedings against the appellant. The issue of back benefits shall also be decided after de-novo proceedings (copy of judgment order enclosed at F-A).

3. Mr. Mohy Uddin RI Police Line Dir Upper was appointed as enquiry officer; the enquiry officer submitted finding report and recommended the defaulter constable for minor punishment.

4. As the previous order of punishment of dismissal from service has been set-aside by the Court and the issue of back benefits left on the mercy of responded department, which is also to be decided.

submitted please.

W.D.G.

Yunis
RA

RT
Clearly state whether
he should be given
back benefit or not
(2)

ATTESTED
Asifullah

[Better Copy]**NOTE SHEET****REFERENCE ATTACHED ENQUIRY**

Sir,

It is submitted that Constable Rashid Ahmad No. 1119 of this District Police was dismissed from service by then DPO Dir Upper on 29.03.2011, due to the allegations that:

ALLEGATIONS:

1. The defaulter constable willfully and deliberately absented from training program w.e.f. 06.06.2010 to 06.07.2010 without prior permission from his superior.
2. He made appeal before the Honourable Service Tribunal. The Service Tribunal in a judgment order re-instated him in service with the direction to initiate de-novo proceedings against the appellant. The issue of back benefits shall also be decided after de-novo proceedings. (Copy of judgment order enclosed at F-A)
3. Mr. Mohy Uddin RI Police Line Dir Upper was appointed as enquiry officer, the enquiry officer submitted finding report and recommended the defaulter constable for minor punishment.
4. As the previous order of punishment of dismissal from service has been set-aside by the Court and the issue of back benefits left on the mercy of respondent department, which is also to be decided.

Submitted please.

جناب عالی!

بحوالہ انکوائری فائینڈنگ رپورٹ اذان لکھنوی رشید احمد نمبر 1119 معروض خدمت ہوں۔ کہ لکھنوی مذکورہ بغیر کسی مجبوری غیر حاضر ہو چکا ہے۔ اور نہ ہی دوران انکوائری غیر حاضری کے متعلق کوئی ٹھوس عذر پیش کی ہے۔ اس سے ظاہر ہوتا ہے کہ لکھنوی کو کورس سے چھٹکارا حاصل کرنے کیلئے غیر حاضری کی ہے۔

بدریں وجوہات back benefat کا حقدار نہیں ہے۔

آر۔ آئی پولیس لائن

05/10/16

ATTESTED

Suballah naw

سال اذان کتب - 1119

مسجد یونس لاہور میں بدعات بیان کیا، اس سال 2001 میں شہر یونس
 میں پھر پھر یہی ڈھونڈنے کا یوں ہے جس کا نام دیں یا نہ ہو 2010
 کو ہر ماہ سے ایک نا کو ریس کے قصبے کے لیے ایسی کارروائی کی اور
 ایک ٹریننگ کے طور پر صلاح و سیر میں آئے۔ ہونے کا 30
 تک ایک ٹریننگ کورس میں شامل دستہ، اہم کفر سے والہا
 نے بہاری کے اہلکار پر ہم (نہت) ایسا ٹریننگ 3 منور پر
 پھر قذافی کا دور ان کے ہونے کے علاوہ ان کے والدین کے وفات
 کے بعد ان کو دستگیر کیا گیا۔ علاوہ دیگر ایسی کارروائیوں سے
 سب سے پہلے ڈاکٹر، ادویات کے ساتھ ایک ماہ میں کئی سے کو ہر آ
 میں دو دن ٹریننگ کے اہلکاروں سے حاضر آئے تاکہ بالکل
 پر اثر و صوت سے (ماہوس) ہونے کے بعد ٹریننگ ایسے ٹریننگ میں
 شامل ہے سال کا کیا۔

اس سے بعد سائل نے یونس لاہور میں بدعات آ کر پھر پھر ایسی کارروائیوں میں شامل
 کی کارروائیوں کو تیار میں تھا۔ سائل نے جو کارروائیوں سے بدعات
 کو جو عدالت کا سامنا کیا۔

P. Bach

دستخط محمد 1119 سنہ 1441ھ

Attested
 [Signature]

ATTESTED
 Arab [Signature]

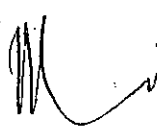
بیان اذان کسٹبل رشید احمد 1119


پولیس لائن نے بددیانتی بیان کیا تا وہ سال 2008 میں کئی پولیس میں
 مصروف ہو کر اپنی ذہنی اہن طریقے سے سرانجام دین رہا ہے مورخ $\frac{5}{010}$
 کو ضلع سے ایڈیٹ کورس کیلئے منتخب ہونے کے بعد اپنی حاضری کی رپورٹ
 ایڈیٹ ٹریننگ سنٹر جلوزی ضلع نوشہرہ میں کی۔ مورخ $\frac{6}{010}$ تک ایڈیٹ
 ٹریننگ کورس میں شامل رہنے کے بعد گھر سے والدہ کی بیماری کی اطلاع
 پر جاریہ رخصت انجارج 7 ٹریننگ سے منظور ہونے کے گھر خود آیا۔ دوران
 رخصت مورخ $\frac{8}{010}$ کو شاملی کی والدہ صاحبہ وفات پائی جس کے
 بعد سائل خود شدید بیمار ہو گیا۔ علاج معالجہ کی خاطر پولیس کورس
 ہسپتال پشاور جاکر ڈاکٹر نے ادویات کے ساتھ ایک ماہ تک کلرک رہت
 بھی تجویزی کی۔ اس دوران ٹریننگ سنٹر ایڈیٹ کورس سے حاضری کی بابت
 رالطم کرنے پر اس وقت سخت مایوسی ہوئی۔ جبکہ ٹریننگ انجارج 7
 نے ٹریننگ میں شامل کرنے سے انکار کیا۔

اس کے بعد سائل نے پولیس لائن دیر بالا اگر ٹرک کوئی پولیس
 اہلکار لائن میں سائل کی حاضری کرنے کو تیار نہیں تھا۔ سائل ہی محکمہ پولیس
 سے ہر فاسنگی کے بعد جبراً عدالت کا سپہا رالیا۔

رشید احمد 1119 شعبہ پولیس لائن

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 ...

Attest

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ATTESTED

 Auf alle ...

بر بیانت بیان کیا کہ کنستبلان فقیر احمد 1270 رسید احمد

کا حملہ سردسری لیکارڈ موجود ہیں چھ صبح کی نسبت دفتر

لیڈا سے کمانڈرنت ایلیٹ فورس و لیٹر نمبر 2950/A مورخہ 6⁰⁵/₀₁₀

لیٹر نمبر 3051 مورخہ 29⁷/₂₀₁₆ جاری ہو چکے ہیں۔ نگر ایجنٹ ریل لیکارڈ

دفتر ہذا بمجموعاً کیا گیا

بیان کیا گیا

22

OFFICE OF THE
Dir: 4060
Date 20-9-21
UPPER DIR



**OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
SAIDU SHARIF SWAT.**

Ph: 0946-9240381-88 & Fax No. 0946-9240390
Email: digmalakand@yahoo.com

ORDER:

This order will dispose of appeal of Constable Rashid Ahmad No. 1119 of Dir Upper District for grant of pay for the period of absence i.e from 06/06/2010 to 06/07/2010 and the period he spent out of service.

Brief facts of the case are that Constable Rashid Ahmed No. 1119 absented himself from training program with effect from 06/06/2010 to 06/07/2010 he was issued Charge Sheet coupled with statement of allegation and departmental proceeding was initiated against the delinquent Constable. During the departmental proceeding the delinquent Constable could not produce any cogent reason in his self defense. Therefore, the then District Police Officer Dir-Upper awarded him major punishment of dismissal from service vide OB No. 199, dated 29/03/2011. His departmental appeal was filed and he filed service appeal No. 172/2012 before the August Service Tribunal Khyber Pakhtunkhwa Peshawar which was decided on 10/03/2016 and re-instated into service with direction to the department to conduct the denove departmental proceeding against him. He was re-instated into service in the light of Judgment dated 10/03/2016 of competent forum vide DPO Dir Upper OB No. 299, dated 21/04/2016. He was issued Charge Sheet coupled with statement of allegation and RI Police Line Muhi ud Din was appointed as Enquiry Officer. The Enquiry Officer recorded the statement of concerned officials as well as defaulter Constable. the Enquiry Officer in finding submitted that the allegation of absence from training program proved against the delinquent official without any shadow of doubt and recommended his absence as well as intervening period / remained out from service as leave with pay as well as awarding minor punishment to him. Therefore, the then District Police Officer Dir Upper agreed with finding of Enquiry Officer and counted his absence period from 06/06/2010 to 06/07/2010 as well as intervening period as leave without pay vide OB No. 677, dated 14/10/2016

EC
Fauji
20/9

He was called in Orderly Room on 09/09/2021 and heard him in person. The appellant could not produce any substantial material in his defense. Therefore, agreed with the order passed by District Police Officer, Dir Upper and his appeal is hereby filed.

Order announced.

OB No. 648
14-9-2021
No. 10570 /E,
Dated 13-9-2021.

Abdul Ghafoor Afridi (PSP)
Regional Police Officer,
Malakand Region, Saidu Sharif Swat
Naqi

Copy to District Police Officer, Dir Upper with reference to his office Memo: No. 4402/E dated 15/07/2021. Service Roll and Fauji Missal of the above named officer is returned herewith for record in your office.

Enrique S. Roell
F-Missal

ATTESTED

Attested

**BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE,
MALAKAND REGION AT SADU SHARIF SWAT.**

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER
DATED 14/10/2016 PASSED BY THE DISTRICT
POLICE OFFICER, DIR UPPER, WHEREBY THE
ABSENT PERIOD FROM 06/06/2010 TO
06/07/2010 HAS BEEN TREATED AS LEAVE
WITHOUT PAY AND FOR THE PAYMENT OF
SALARIES W.E.F 06/06/2010 TO 21/04/2014
TO THE APPELLANT.

Respectfully Shewell:-

1. *That the appellant joined Police Department as Constable in ponce in year 2001 and since then performed his duties with honesty and full devotion.*
2. *That the appellant was transferred to Elite Force KPK on 19/11/2009 and selected for training program, but due to illness, could not attend the same, whereafter, he was dismissed from service, against which he filed departmental appeal and thereafter approach KPK Service Tribunal, Peshawar. Finally his Service Appeal No 171/2012 was allowed, the dismissal order was set aside and the case was remitted to the*

[Handwritten Signature]
[Handwritten Signature]
 For Regional Police Officer,
 Malakand, Sadu Sharif Swat

ATTESTED *[Handwritten Signature]*
Asif ul haq
Aan

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department for denovo proceedings, however, the question of back benefits was to be decided after denovo proceedings. (Copy of order and judgment of Service Tribunal is enclosed as annexure "A").

3. That the appellant was reinstated into service on 21/04/2016, charge sheet with statement of allegation was issued to him which the appellant replied, whereafter an illegal inquiry was conducted and the appellant was recommended for minor penalty. (Copy of charge sheet, reply and inquiry report are enclosed as annexure "B", "C" & "D").

4. That the authority again sent the inquiry to the Inquiry Officer to clearly state whether the appellant be given back benefits or not and accordingly the inquiry officer again gave finding that the appellant is not entitled to the back benefits. (Copy of note sheet and opinion of the inquiry officer dated 05/10/2016 are enclosed as annexure "E" & "F").

5. That finally, vide impugned order dated 14/10/2016 of the District Police Officer, Dir Upper, the absent period from 06.06.2010 to 06.07/2010 was treated as leave without pay.

ATTESTED
Anjali

(Copy of the order is enclosed as annexure "G").

6. That the impugned order dated 14/10/2016 of the District Police Officer, Dir Upper not paying the benefits including salaries of the period from 06/06/2010 to 31/01/2016 is against the law, facts and principles of justice on grounds inter alia as follows:-

Grounds:-

- A. That the impugned order is illegal and void ab-initio being passed in utter violation of law, rules and policy on the subject.
- B. That the appellant has not been treated in accordance with law & rules on the subject.
- C. That no Show Cause Notice was communicated to the appellant nor proper inquiry in the matter was conducted.
- D. That the absence from duty was not willful and deliberate, rather the same was because of circumstances compelling in nature and were also beyond the control of the appellant, due to

the death of mother, also the appellant was unable to had performed his duties.

E. That the District Police Officer Dir Upper has not agreed to the finding of Inquiry Officer without assigning any reason.

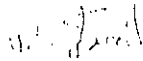
F. That the period from 06/06/2010 to 06/07/2010 has been treated as leave without pay and the appellant as such is entitled to the back benefits of the entire period.

G. That even there is mis-application of law, and the order is as such void ab-initio.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 14/10/2016 of the District Police Officer, Dir Upper may kindly be set-aside and the appellant may kindly be paid the benefits including salaries etc of the entire period from 06/06/2010 to 21/04/2016.

Dated:-

Appellant



Rasheed Ahmad
Constable No 1119
District Police Dir Upper.
Cell No:-

[Better Copy]

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE,
MALAKAND REGION AT SAIDU SHARIF SWAT

Subject: **DEPARTMENTAL APPEAL AGAISNT THE**
ORDER DATED 14.10.2016 PASSED BY THE
DISTRICT POLICE OFFICER, DIR UPPER,
WHEREBY THE ABSENT PERIOD FROM
06.06.2010 TO 06.07.2010 HAS BEEN TREATED
AS LEAVE WITHOTU PAYA ND FOR THE
PAYMENT OF SALARIES W.E.F. 06.06.2010 TO
21.04.2014 TO THE APPELLANT.

Respectfully Sheweth,

1. That the appellant joined Police Department as Constable in police in year 2001 and since then performed his duties with honesty and full devotion.
2. That the appellant was transferred to Elite Force KPK on 19.11.2009 and selected for training program, but due to illness, could not attend the same, whereafter, he was dismissed from service, against which he filed departmental appeal and thereafter approach KPK Service Tribunal, Peshawar. Finally his Service appeal No. 171/2012 was allowed, the dismissal order was set aside and the case was remitted to the

[Better Copy]

Department for denovo proceedings, however, the question of back benefits was to be decided after denovo proceedings. (Copy of order and judgment of Service Tribunal is enclosed as Annexure "A")

3. That the appellant was reinstated into service on 21.04.2106, charge sheet with statement of allegation was issued to him which the appellant replied, whereafter an illegal inquiry was conducted and the appellant was recommended for minor penalty. (Copy of charge sheet, reply and inquiry report are enclosed as Annexure B, C & D)
4. That the authority again sent the inquiry to the Inquiry Officer to clearly state whether the appellant be given back benefits or not and accordingly the inquiry officer again gave finding that the appellant is not entitled to the back benefits. (Copy of note sheet and opinion of the inquiry officer dated 05.10.2016 are enclosed as annexure E & F)
5. That finally, vide impugned order dated 14.10.2016 of the District Police Officer, Dir Upper, the absent, period from 06.06.2010 to 06.07.2010 was treated as leave without pay. (Copy of the order is enclosed as Annexure G)

[Better Copy]

6. That the impugned order dated 14.10.2016 of the District Police Officer, Dir Upper not paying the benefits including salaries of the period from 06.06.2010 to 21.04.2016 is against the law, facts and principles of justice on ground inter alia as follows:

GROUNDS:

- a. That the impugned order is illegal and void ab-initio being passed in utter violation of law, rules and policy on the subject.
- b. That the appellant has not been treated in accordance with law and rule on the subject.
- c. That no Show Cause Notice was communicated to the appellant nor proper inquiry in the matter was conducted.
- d. That the absence from duty was not wilful and deliberate, rather the same was because of circumstances compelling in nature and were also beyond the control of the appellant, due to

The death of mother, also the appellant was unable to had performed his duties.

- e. That the district Police Officer, Dir Upper has not agreed to the finding of Inquiry Officer without assigning any reason.
- f. That the period from 06.06.2010 to 06.07.2010 has been treated as leave without pay and the appellant as such is entitled to the back benefits of the entire period.
- g. That even there is mis-application of law, and the order is as such void ab-initio.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 14.10.2016 of the District Police Officer, Dir Upper may kindly be set-aside and the appellant may kindly be paid the benefits including salaries etc. of the entire period from 06.06.2010 to 21.04.2016.

Appellant

Rasheed Ahmad
Constable No. 1119
District Police Dir Upper

از دفتر R. دیر بالا۔

بخدمت عملنامہ کلرک OASI دیر بالا۔

بجوالہ انکوائری اذان کنسٹیبلان 1۔ رشید احمد نمبر 1119، نثار احمد نمبر 1270 لکھا جاتا ہے۔ کہ ہر دو کنسٹیبلان بالا کے عدالتی احکامات پر دوبارہ بحالی سروس عمل میں لائی جا چکی ہے، مگر چونکہ احکامات کی روشنی میں Denovo انکوائری کے احکامات ہو چکے ہیں۔ لہذا کنسٹیبلان بالا کا سروس ریکارڈ نوجی مثل و سروس رول کے متعلق بار بار پرونہ جات اور زبانی ہدایت کے باوجود ابھی تک دفتر ہذا کو موصول نہیں جس سے کنسٹیبلان کے خلاف انکوائری تعطل کا شکار ہے۔

لہذا دو دن کے اندر اندر متعلقہ ریکارڈ دفتر ہذا میں پیش کرے۔ ضروری ہے۔

کاپی برائے اطلاع عیالی۔

ریڈر ڈی پی او صاحب دیر بالا۔





آر۔ آئی پولیس بلائن دیر بالا۔

67-69 / DSP. H&A

22/7/16

ATTESTED

Attest
A. B. Khan
A. B.

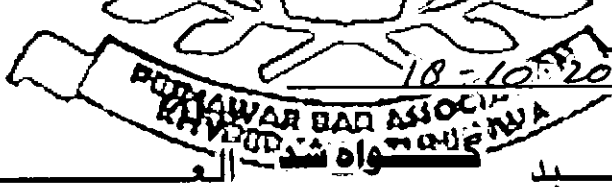
قیمت 50 روپے	100507			
ایڈویکٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ایسوسی ایشن نمبر: BC-17-7666				
رابطہ نمبر: 0333-9682874				

بعدالت جناب: سروس نمبر پیونل لیسٹا اور

منجانب: Appellant	دعویٰ: Contre Appel
رشدہ احمدیہ بنام اسٹیزہ ظہیرہ بیگم صیبرا بیگم	علت نمبر: /
	مورخہ: /
	جرم: /
	تھانہ: /

باعت تحریر آتکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کاروائی متعلقہ
آن مقام سروس نمبر پیونل لیسٹا کے عارف اللہ رشید سندھ رضا الرحیل صاحب کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرہے و تقریر ثالث و فیصلہ بر حلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے بقر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداخت منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 18-10-2018


مقام سروس نمبر پیونل لیسٹا اور کے لیے منظور ہے۔

Accepted
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سید احمد علی
دوسرے درجہ
مقام سروس نمبر پیونل لیسٹا اور کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی قابل قبول ہوگی۔

لجودت صدر سروس نر-پونزل لیبٹور

رشد احمد بنام اے جی جی ضیہ دکتور خوا

دفعہ 114 سے متعلقہ واقعہ دیکھ کر جان سیکورٹی نہیں

صاف ہے۔ اس کے ساتھ ساتھ سروس ڈیوٹی

1. یہ کہ سروس کے سروس ایبل سروس میں نہ لیا گیا ہے، جس میں
سورہ 15-07-2022 سروس ہے

2. یہ کہ سروس ضلع دیہ میں سروس ہے اور والدہ حضور میں تاریخ
سروس سے واقف ہیں تھا۔

3. یہ کہ سروس ضلع دیہ میں جمع کرانہ سروس واقعہ دیا جا رہا ہے

اس کے ساتھ ساتھ سروس دفعہ 114 سے متعلقہ واقعہ دیکھ کر
2، 3 دن کا موقع دیا جائے گا اس سروس کے ساتھ ساتھ سروس

رشد احمد
بنام اے جی جی ضیہ دکتور خوا

15-7-2022

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No. 7722 of 2021.

Rasheed Ahmad District Dir Upper Ex- Constable, No 100.

(Appellant)


Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar.
2. The Regional Police Officer, Malakand Division at Swat.
3. The District Police Officer, Upper Dir.

(Respondents)

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4	Copy of de-novo enquiry Report	A	6
5	Copy of order	B	7


**Inspector Legal,
Dir upper.**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No. 7722 of 2021.

Rasheed Ahmad District Dir Upper Ex- Constable, No,100.

(Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar.
2. The Regional Police Officer, Malakand Division At Swat.
3. The District Police Officer, Upper Dir

(Respondents)

PARA WISE REPLY BY RESPONDENTS.

Respectfully Sheweth :

Respondents submit as under.

Preliminary objections:

1. That the instant service Appeal is not maintainable in the present form and liable to be dismissed.
2. That the Appellant has got no cause of action and locus standi to file the instant Appeal.
3. That the Appellant is estopped due to his own conduct.
4. That the Appellant has concealed the material facts from the Honorable Service Tribunal.
5. That jurisdiction of this Honorable service Tribunal has wrongly been invoked.

6. That the Appeal is bad due to mis-joinder and non-joinder of necessary parties.
7. That the Appeal is barred by law & limitations.

ON FACTS.

- 1 Correct.
- 2 Incorrect, the appellant absented himself from duty without plausible reasons and the competent authority after proper scrutiny of record found the appellant guilty of misconduct and dismissed the appellant from service.
- 3 Correct to the extent that the honorable service Tribunal judgment wherein the appeal of the appellant was allowed with the directions to conduct De-novo enquiry and in compliance the De-novo proceedings were conducted. The competent authority in light of the recommendations of enquiry officer, counted the absence period as without pay. Furthermore the departmental appeal filed by the appellant was found groundless hence rejected (Copy of de-novo enquiry report and order of DPO attached as annexure A and B).
- 4 Incorrect. The de-novo proceedings conducted by the respondents on the directions of the honorable service tribunal and proper procedure adopted in the enquiry by giving opportunity of personal hearing to the appellant but he could not satisfy the enquiry officer regarding the absence period. Therefore the competent authority, on the recommendations of the enquiry officer treated the absence period as leave without pay.
- 5 Incorrect the departmental appeal filed by the appellant found groundless, hence rightly rejected by the competent authority.

6 Reply to this Para is given in the preliminary objections.

GROUND.

A. Incorrect, all codal formalities have been adopted properly and after scrutiny of whole record, conduct of the appellant, the period of absence was counted as leave without pay and the principles of 'no work no pay, is maintained in the case in hand.

B. Incorrect, as per directions of honorable service tribunal, the appellant was re-instated into service but during De-novo process, he failed to advance any plausible reasons regarding deliberate absence from duty. The competent authority on the recommendations of enquiry officer treated the absence period as leave without pay.

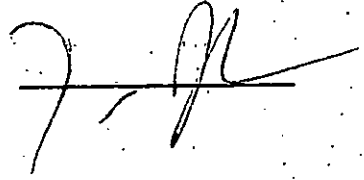
C. Incorrect, the judgment of service tribunal has been fully followed and the appellant was treated as per law/rules.

D. Incorrect, no miscarriage of justice is committed by the respondents and the appellant faced all these due to his own misconduct.

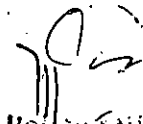
Prayer.

Keeping in view the above facts and reasons, it is humbly prayed that on the acceptance of this Para wise comments the appeal of the appellant may please be dismissed with cost.

**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.**

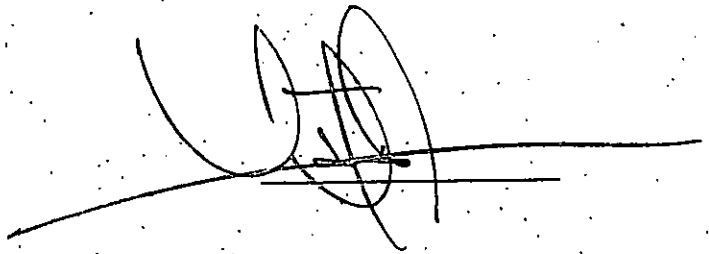


**Regional Police Officer,
Malakand at Saidu Sharif, Swat.**



**Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.**

**District Police Officer,
Upper Dir.**



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 7722 of 2021:

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(Respondents)

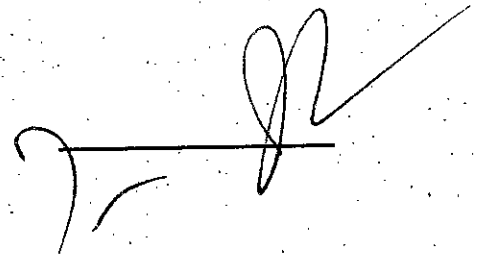
Power of Attorney

We, the undersigned do hereby authorized *Noor Buz* Inspector Legal to appear on our behalf before the honorable Service Tribunal in the cited above case on each and every date.

He is also authorized to file para wise comments/ reply, prefer appeal and to submit the relevant documents before the Tribunal.

Respondents:

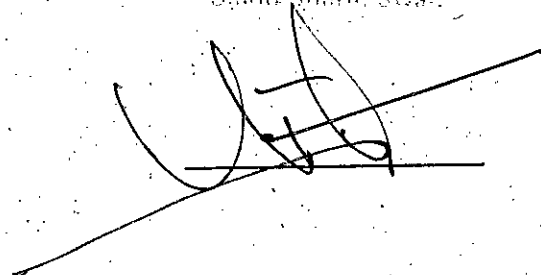
**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.**



**Regional Police Officer,
Malakand at Saidu Sharif, Swat.**

[Signature]
Regional Police Officer
Malakand Division
Saidu Sharif, Swat.

**District Police Officer,
Dir upper.**



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No. 7722 of 2021.

Rasheed Ahmad District Dir Upper Ex- Constable, No 100.

(Appellant)

Versus

- 1 The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2 The Regional Police Officer, Malakand Division At Swat.
- 3 The District Police Officer, Upper Dir

(Respondents)

Affidavit

I, ~~Nasir Ali~~, Inspector/Legal do hereby solemnly affirm and declared that the contents of para wise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

ATTESTED



DEPONENT
Inspector
Legal, Upper Dir.

DF 15-8-16

جو والد انکوآری اذنان کنسٹبل، رشید احمد 1119 معروض خدمت ہوں۔ کہ کنسٹبل مذکورہ ضلع ہذا سے ایلیٹ کورس کیلئے منتخب ہو کر کورس میں حاضری کرنے کے بعد دوران کورس سے غیر حاضر ہو کر جس پر کنسٹبل کے خلاف انکوآری شروع ہو کر انکوآری میں قصور وار پایا جا کر محکمہ پولیس سے درخواست کیا گیا۔ حکم برخواستگی کے خلاف کنسٹبل نے سروس ٹرمینیشن پشاور میں اپیل دائر کی۔ عدالت نے سماعت کے خاطر بارہا انکوآری فائل محکمہ سے طلب کی مگر محکمہ پولیس اپرا سیکوریشن فائل پیش کرنے سے قاصر رہے۔ جس پر عدالت نے یکطرفہ کارروائی کرتے ہوئے کنسٹبل مذکورہ کو محکمہ میں بحال کرنے اور Denove انکوآری کرنے کے احکامات صادر فرمانے پر اسر نو انکوآری کے خاطر من R.I کو حوالہ ہوئی۔

انکوآری میں کنسٹبل رشید احمد 1119 کو چارج شیٹ نمبری 1537-38/SB مورخہ 23.6.2016 جاری ہو کر جس نے اپنے تحریری بیان میں واضح کیا کہ ضلع ہذا سے سال 2010 میں ایلیٹ فورس ٹریننگ کیلئے منتخب ہونے کے بعد اپنی حاضری کی رپورٹ ایلیٹ ٹریننگ سنٹر جلوزئی ضلع نوشہرہ میں کرنے کے بعد مورخہ 03.06.2010 کو والدہ کی بیماری کی اطلاع موصول ہونے پر انچارج سے چار یوم رخصت منظور کر کے گھر خود آیا۔ دو دوران رخصت مورخہ 08.06.2010 کو والدہ کی وفات پر وہ خود بھی شدید بیمار ہوا۔ علاج کی خاطر پولیس سروس ہسپتال پشاور سے علاج کے ساتھ ڈاکٹر نے ایک ماہ میڈیکل ریست بھی تجویز کی۔ میڈیکل ریست کے اختتام پر جب دوبارہ ٹریننگ جوائن کرنے کے لیے ٹریننگ سنٹر میں حاضر ہوا۔ تو انچارج ٹریننگ نے ٹریننگ میں شامل کرنے سے انکار کیا۔ جس پر دوبارہ واپس پولیس لائن ضلع ہذا اگر اپنی حاضری پیش کی مگر یہاں بھی حاضری رپورٹ کسی نے درج نہ کیا اور بتایا گیا کہ تم ایلیٹ تبدیل ہو چکا ہے۔ وہاں حاضری کریں۔ اور ایلیٹ میں بھی حاضری نہ ہو سکی۔

سابقہ انکوآری کاغذات دفتر عملنامہ کلرک سے طلب کرنے پر عدم موجود پائے گئے۔ جس کی نسبت عملنامہ کلرک عبدالحمید JC سے بیان لیا جا کر جس نے اپنے بیان میں واضح کیا کہ کنسٹبل کا سروس ریکارڈ دفتر ایلیٹ فورس ارسال ہو چکا ہے۔ جس کی دوبارہ طلبی کے خاطر لیٹر نمبر 2950/EB مورخہ 06.05.2010، نمبر 3051/EB مورخہ 29.07.016 جاری ہو چکے ہیں۔ جس کے جواب میں ابھی تک کسی قسم کی کارروائی دفتر ایلیٹ فورس کی طرف سے عمل میں نہیں لائی گئی ہے۔ بقول متاثرہ کنسٹبل سروس ریکارڈ میں پیش ہو چکے ہیں۔

چونکہ انکوآری ہذا سے معلوم ہوا کہ کنسٹبل رشید احمد نمبر 1119 نے بیماری کا بہانہ بنا کر ٹریننگ سے اپنے آپ کو بچانے کی کوشش کرتے ہوئے غیر حاضر رہ چکا ہے۔ چونکہ مذکورہ کنسٹبل کے نہ سابقہ انکوآری دستیاب ہوا اور نہ ہی اسکے فوجی مثل اور سروس رولز دستیاب ہوا ہے۔ جن کے نسبت عملنامہ کلرک کے بیان لف انکوآری ہے۔ چونکہ ریکارڈ طلب کر کے کافی انتظار کے باوجود بھی دستیاب نہ ہو سکا، چونکہ عدالت مذکورہ کنسٹبل کو بحالی کا حکم صادر فرمایا ہے۔ انکوآری سے مذکورہ کنسٹبل قصور وار پایا جاتا ہے۔ لہذا Minor سزا کی سفارش کی جاتی ہے۔

محمد الدین

**OFFICE OF THE
DISTRICT POLICE OFFICER,
DIR UPPER.**

Order:-

This order will disposed of the denovo enquiry of Constable Rashid Ahmad No. 1119 of this District Police. The above named Constable was dismissed from service vide District Police Officer, Dir Upper order No. 199 dated 29.03.2011 and the absence period from 06.06.2010 to 06.07.2010 was treated as leave without pay. The above Constable filed appeal in the Service Tribunal against the above mentioned order.

The Service Tribunal in the judgment order dated 10.03.2016 re-instated the appellant Constable Rahid Ahmad No. 1119 and re-instated him in Service and placed the respondent at liberty to conduct "denovo" enquiry regarding allegations and chargers against the appellant.

In the light of Service Tribunal Judgment order a denovo enquiry has been initiated against the above named official.

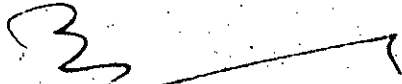
Mr. Mahye Uddin Khan RI Police Lines was nominated as enquiry officer; the enquiry officer recommended that the absent period with effect from 06.06.2010 to 06.07.2010 be treated as leave without pay.

Keeping in view the finding report of enquiry officer the absent period i.e 06.06.2010 to 06.07.2010 in which remained out of service is also treated as leave without pay.

Order announced.

OB No. 677

Dated 14/10/ 2016.


District Police Officer,
Dir Upper.